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(U//~~FOUO~~) National Security Agency Response to Congressionally Directed Action: Report of Annual Review Pursuant to Section 702(l) of the Foreign Intelligence Surveillance Act for Period 9/1/2014 through 8/31/2015

(U) Subsection 702(l)(3) of the Foreign Intelligence Surveillance Act (FISA) of 1978, as amended by the FISA Amendments Act of 2008 (FAA), requires the head of an agency conducting acquisitions pursuant to section 702 of the FISA to conduct an annual review to determine whether there is reason to believe that foreign intelligence has been or will be obtained from the acquisitions authorized under subsection 702(a) of the FISA and to use the review to evaluate the adequacy of minimization procedures used by that agency as well as to evaluate the application of the minimization procedures to a particular acquisition, as appropriate, authorized under subsection 702(a) of the FISA.

(U) The statutory provision requires that the review shall provide, with respect to acquisitions authorized under subsection 702(a) of the FISA: (i) an accounting of the number of disseminated intelligence reports containing a reference to a U.S. person identity; (ii) an accounting of the number of U.S. person identities subsequently disseminated by the National Security Agency (NSA) in response to requests for identities that were not referred to by name or title in the original reporting; (iii) the number of targets that were later determined to be located in the United States and, to the extent possible, whether communications of such targets were reviewed; and (iv) a description of any procedures developed by the head of such element of the Intelligence Community (IC) and approved by the Director of National Intelligence (DNI) to assess, in a manner consistent with national security, operational requirements, and the privacy interests of U.S. persons, the extent to which the acquisitions authorized under subsection 702(a) of the FISA acquire communications of U.S. persons, and the results of any such assessment. Subsection 702(l)(3)(C) of the FISA further provides that this review shall be provided to: the Foreign Intelligence Surveillance Court (FISC), the Attorney General (AG), the DNI, the Congressional intelligence committees, and the Committees on the Judiciary of the House of Representatives and the Senate.

(U) The Director of NSA has conducted an annual review of NSA acquisitions authorized under subsection 702(a) of the FISA and hereby provides the results of this review conducted in accordance with subsection 702(l)(3) of the FISA for the 12-month period ending on 31 August 2015.

(U) Foreign Intelligence Obtained

~~(S//NF)~~ During the period covered by this report, NSA has acquired foreign intelligence information under [REDACTED] separate certifications authorized by the AG and the DNI, [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]

[REDACTED]

~~(TS//SI//NF//FISA)~~ NSA acquired valuable foreign intelligence information during the period covered by this annual review that enabled NSA [REDACTED] to disseminate approximately [REDACTED] intelligence product reports.² Foreign intelligence highlights from the information acquired during this reporting period include: [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

~~(S//NF)~~ As of 31 August 2015, NSA continued to acquire information pursuant to [REDACTED] certifications authorized by the AG and the DNI regarding the subject matter areas identified above, and this information continues to provide valuable foreign intelligence information. Given the wealth of valuable foreign intelligence information acquired during this reporting period, there is every reason to believe that acquisition pursuant to FISA section 702 provides and will continue to provide one of the most lucrative and most valuable sources for foreign intelligence available to NSA.

(U) Adequacy of Minimization Procedures

(U) NSA continually evaluates the minimization procedures applicable to the information that is acquired pursuant to subsection 702(a) of FISA and the application of the minimization procedures to particular acquisitions (i.e., the certifications cited above). These are minimization procedures that the AG, in consultation with the DNI, has adopted and that the FISC has approved for application to NSA's FISA subsection 702(a) data acquisitions.³ NSA will continue

~~(S//NF)~~ On 27 August 2014, the FISC approved Certifications [REDACTED] effective on 28 August 2014. Pursuant to 50 U.S.C. § 1881a(i)(5)(B), the 2014 Certifications, which were originally scheduled to expire on 28 August 2015, remained in effect until 6 November 2015, when the FISC issued an Order approving the Government's 2015 Certifications. Following the Government's submission of the 2015 Certifications, the FISC issued an Order extending the period of its review through 12 November 2015 to allow time for the appointment and participation of an amicus curiae under 50 U.S.C. § 1803(i)(2), a provision of the USA FREEDOM Act of 2015. A Congressional Notice was made on 1 September 2015 by the Office of the Director of National Intelligence apprising Congress of the extension. As a result of the extension, all Section 702 acquisition and minimization during this reporting period occurred pursuant to the 2014 Certifications.

²(U) These reports were based either in whole or in part on information acquired pursuant to subsection 702(a) of the FISA.

³ NSA made changes to its 2015 minimization procedures pertaining to the querying of 702 acquisitions using United States person identifiers based on a recommendation made by the Privacy and Civil Liberties

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to evaluate its minimization procedures to ensure they protect the privacy interests of U.S. persons while affording the IC timely access to foreign intelligence information.

i. (U) Number of Disseminated Intelligence Reports Containing a Reference to a U.S. Person Identity

~~(S//NF)~~ During the period of this report, NSA disseminated 4,318 intelligence reports that contained one or more references to U.S. persons.⁴ NSA does not maintain records that allow it to readily determine, in the case of a report that includes information from several sources, from which source a reference to a U.S. person was derived. Accordingly, the references to U.S. person identities may have resulted from collection pursuant to subsection 702(a) of the FISA or from other authorized signals intelligence activity conducted by NSA that was reported in conjunction with information acquired under section 702.⁵

ii. (U) Accounting of U.S. Person Identities Disseminated in Response to Requests for Information

(U//~~FOUO~~) During the period of this report, after concluding that the requirements of its minimization procedures had been satisfied, NSA disseminated [REDACTED] U.S. person identities that were not referred to by name or title in the original reporting.⁶ The majority of these requests were received from elements of the U.S. IC or from Federal law enforcement agencies.

iii. (U) Accounting of the Number of Targets Later Determined to be in the United States

Oversight Board (PCLOB) in its report on Section 702. The changes became effective when the FISC approved the 2015 minimization procedures on 6 November 2015.

~~(S//NF)~~ The Central Intelligence Agency (CIA) does not conduct acquisitions under subsection 702(a) of the FISA. The CIA, however, [REDACTED] and disseminates information based on those communications. The CIA provided the following information to NSA for inclusion in this report. [REDACTED]

~~(S//NF)~~ [REDACTED]

~~(S//NF)~~ For the previous reporting period, NSA reported that 3,966 intelligence reports contained one or more references to U.S. persons.

~~(S//REL TO USA, FVEY)~~ Of note, approximately 20% of these disseminated U.S. person identities were proper names or titles of individuals. In the majority of instances, the released identity information consisted of [REDACTED]

~~(S//REL TO USA, FVEY)~~ [REDACTED]

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~~(S//REL TO USA, FVEY)~~ NSA targets persons under subsection 702(a) by tasking their means of communications (e.g., email addresses, telephone numbers) in order to acquire foreign intelligence information; these targets do not include known U.S. persons. In addition, NSA has developed targeting procedures in accordance with the statutory requirements of subsection 702(a) of the FISA that are reasonably designed to ensure that any acquisitions under subsection 702(a) are limited to targeting non-U.S. persons reasonably believed to be located outside the United States. These targeting procedures have been reviewed and approved by the AG, in consultation with the DNI and the FISC, and they include the use of [REDACTED] and analysts' review of acquired information to determine whether NSA targets are subsequently determined to be inside the United States.⁷

~~(S//NF)~~ During the period of this report, NSA tasked for collection an average of approximately [REDACTED] individual means of communications under subsection 702(a) of the FISA (approximately [REDACTED] electronic communications accounts and approximately [REDACTED] telephone numbers) at any given time. During the period of this report, NSA determined that there were [REDACTED] occasions when NSA no longer had a reasonable belief that the non-U.S. person targeted was located outside the United States. In most cases the determination that the target's means of communication were not being used by persons reasonably believed to be outside the United States was made through a combination of [REDACTED] used by NSA to inform the continued validity of its reasonable belief that its targets are outside the United States and the review of the substance of the communications acquired by NSA. In other cases the determination that the target's means of communication were not being used by persons reasonably believed to be outside the United States was made only through [REDACTED]

iv. (U) Description of Any Procedures Developed During the Reporting Period

(U) During the period of this report, no additional procedures were developed by NSA and approved by the DNI to assess the extent to which the acquisitions authorized under subsection 702(a) of FISA acquire the communications of U.S. persons beyond the procedures referenced within this annual report.⁸ NSA believes that existing targeting and minimization procedures and related safeguards, as implemented and overseen internally by NSA and externally by DoJ, the Office of the DNI, and the FISC, together provide assurances that subsection 702(a) authorities are being executed reasonably and with due care. To the extent that communications of U.S. persons or persons in the United States are acquired in the conduct of NSA's targeting persons outside the United States who are not U.S. persons, the communications are treated in accordance with applicable legal and policy requirements in order to safeguard the privacy interests of U.S. persons and persons in the United States.

⁷ NSA made changes to its 2015 targeting procedures that require enhanced documentation of the basis of an assessment that the proposed targeting will yield foreign intelligence information related to the Certification under which the targeting will be conducted. This change was based on a recommendation made by the PCLOB in its report on Section 702 and is expected to enable more efficient oversight. The change became effective when the FISC approved the 2015 minimization procedures on 6 November 2015.

⁸(U) This report has referenced targeting and minimization procedures adopted by the AG in consultation with the DNI, and approved by the FISC.

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